

EXHIBIT 1

INTRODUCTION

Respondent Yellowstone Development, LLC is a land development and real estate sales corporation domiciled in Big Sky, Montana.

In 2003, during the second semi-annual campaign reporting period of July 1, 2003 through December 31, 2003, Respondent made a \$100,000 political contribution, and thereby qualified as a “major donor committee” under the Political Reform Act (the “Act”).¹ As such, Respondent was required to comply with specified campaign reporting provisions of the Act.

As a major donor committee, Respondent was required by the Act to file late contribution reports disclosing its late contributions within 24 hours of making them. Furthermore, Respondent was also required to file a semi-annual campaign statement, commonly known as a “major donor statement,” disclosing its contributions during the period July 1, 2003 through December 31, 2003. Finally, as Respondent’s contribution activity exceeded \$50,000 for the calendar year, Respondent was also obligated to file all required campaign statements online or electronically with the Secretary of State after the \$50,000 threshold amount was met.

In this case, Respondent made a late contribution prior to the October 7, 2003 special statewide election, which it failed to disclose in a properly filed late contribution report, thereby committing a violation of the Act. Respondent also failed to timely file a major donor campaign statement for the reporting period July 1, 2003 through December 31, 2003, thereby committing an additional violation of the Act. Finally, Respondent failed to file both the late contribution report and the major donor campaign statement electronically, thereby committing two additional violations of the Act.

For the purposes of this stipulation, Respondent’s violations are stated as follows:

COUNT 1: Respondent Yellowstone Development, LLC failed to disclose a \$100,000 late contribution to the “Arnold Schwarzenegger’s Total Recall Committee, Vote to Recall Gray Davis” Committee in a properly filed late contribution report, by the September 27, 2003 due date, in violation of section 84203, subdivision (a).

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 2: Respondent Yellowstone Development, LLC failed to disclose a \$100,000 late contribution to the “Arnold Schwarzenegger’s Total Recall Committee, Vote to Recall Gray Davis” Committee in an electronically filed late contribution report, by the September 27, 2003 due date, in violation of section 84605, subdivision (a).
- COUNT 3: Respondent Yellowstone Development, LLC failed to timely file a semi-annual campaign statement, by the January 31, 2004 due date, for the reporting period July 1, 2003 through December 31, 2003, in violation of section 84200, subdivision (b).
- COUNT 4: Respondent Yellowstone Development, LLC failed to file a semi-annual campaign statement, by the January 31, 2004 due date, for the reporting period July 1, 2003 through December 31, 2003, in violation of section 84605, subdivision (a).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Section 82013, subdivision (c) includes within the definition of “committee” any person or combination of persons who directly or indirectly makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to, or at the behest of, candidates or committees. This type of committee is commonly referred to as a “major donor” committee.

Under section 84203, subdivision (a), when a committee makes or receives a late contribution, the committee must disclose the contribution in a late contribution report that must be filed within 24 hours of making or receiving the contribution. Section 82036 defines a “late contribution” as a contribution aggregating \$1,000 or more that is received before an election, but after the closing date of the last pre-election campaign statement. Under section 84200.8, subdivision (b), for an election not held in June or November of an even-numbered year, the late contribution period covers the last 16 days before the election.

Section 84200, subdivision (b) requires a major donor committee to file a semi-annual campaign statement for any reporting period in which the committee made campaign contributions. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year.

Section 84605, subdivision (a) requires, beginning July 1, 2000, that major donor committees that make contributions totaling fifty thousand dollars (\$50,000) or more in a calendar year must file all required campaign statements online or electronically with the Secretary of State after the \$50,000 threshold amount is met.

Section 84215, subdivision (a) requires all major donor committees supporting statewide measures to file the committee's campaign statements with the office of the Secretary of State, the Registrar-Recorder of Los Angeles County, and with the Registrar of Voters of the City and County of San Francisco.

SUMMARY OF THE FACTS

During the second semi-annual campaign reporting period of 2003, Respondent Yellowstone Development, LLC made a \$100,000 political contribution, and thereby qualified under section 82013, subdivision (c) of the Act as a major donor committee.

COUNT 1

Failure to File a Late Contribution Report

As a major donor committee, Respondent Yellowstone Development, LLC had a duty to file late contribution reports, disclosing, within 24 hours, any late contributions that it made. The late contribution reporting period for the October 7, 2003 special statewide election was September 21, 2003 through October 6, 2003.

On September 26, 2003, Respondent Yellowstone Development, LLC made a contribution of \$100,000 to the "Arnold Schwarzenegger's Total Recall Committee, Vote to Recall Gray Davis" Committee. As the contribution was made during the late contribution reporting period prior to the October 7, 2003 special election, Respondent was required to disclose the contribution in a late contribution report filed by September 27, 2003. Respondent failed to do so.

By failing to file a late contribution report by September 27, 2003, disclosing a \$100,000 late contribution to the "Arnold Schwarzenegger's Total Recall Committee, Vote to Recall Gray Davis" Committee, Respondent committed a violation of section 84203, subdivision (a).

Respondent disclosed the \$100,000 late contribution made to the "Arnold Schwarzenegger's Total Recall Committee, Vote to Recall Gray Davis" Committee in a semi-annual campaign statement filed on March 30, 2004, approximately six months late.

COUNT 2

Failure to Disclose a Late Contribution Electronically

As a major donor committee which made contributions of \$50,000 or more in a calendar year, Respondent Yellowstone Development, LLC had a duty to file all of its required campaign statements online or electronically with the Secretary of State after the \$50,000 threshold amount was met.

Prior to the October 7, 2003 special election, Respondent Yellowstone Development, LLC made a late contribution, and failed to electronically file a late contribution report disclosing the contribution. Respondent made a late contribution of \$100,000 on September 26, 2003 to the “Arnold Schwarzenegger’s Total Recall Committee, Vote to Recall Gray Davis” Committee, and failed to electronically file a late contribution report disclosing the \$100,000 late contribution by the September 27, 2003 due date.

By failing to disclose a late contribution in an electronically filed late contribution report with the Office of the Secretary of State, as set forth above, Respondent committed a violation of section 84605, subdivision (a).

COUNT 3

Failure to File a Semi-Annual Campaign Statement

Respondent Yellowstone Development, LLC had a duty to file a semi-annual campaign statement by January 31, 2004, for the reporting period July 1, 2003 through December 31, 2003. Respondent failed to file a semi-annual campaign statement, by January 31, 2004, in violation of section 84200, subdivision (b).

During the reporting period July 1, 2003 through December 31, 2003, Respondent made a \$100,000 campaign contribution, which it failed to disclose in a timely filed semi-annual campaign statement. By failing to timely file a semi-annual campaign statement disclosing the contribution made, as set forth above, Respondent committed a violation of section 84200, subdivision (b).

Respondent filed a semi-annual campaign statement for the reporting period January 1, 2003 through December 31, 2003 with the Office of the Secretary of State on March 30, 2004, approximately eight weeks late.

COUNT 4

Failure to File a Semi-Annual Campaign Statement Electronically

Respondent Yellowstone Development, LLC had a duty to file a semi-annual campaign statement electronically by January 31, 2004, for the reporting period July 1, 2003 through December 31, 2003. Respondent failed to electronically file a semi-annual campaign statement, by January 31, 2004, in violation of section 84605, subdivision (a).

On September 26, 2003, Respondent’s contribution activity for calendar year 2003 totaled \$100,000. As such, Respondent had met the \$50,000 threshold amount, which thereafter required all campaign statements filed by Respondents to be filed electronically or online with the Office of the Secretary of State, in addition to the paper-filing requirement.

During the reporting period July 1, 2003 through December 31, 2003, Respondent made a \$100,000 campaign contribution, which it failed to disclose in an electronically filed semi-annual campaign statement.

By failing to electronically file a semi-annual campaign statement disclosing the contribution made, as set forth above, Respondent committed a violation of section 84605, subdivision (a).

CONCLUSION

This matter consists of four counts, which carry a maximum possible administrative penalty of Twenty Thousand Dollars (\$20,000).

Regarding Counts 1 and 2, under the Enforcement Division's Streamlined Late Contribution Enforcement Program, the approved administrative penalty for failing to timely disclose a late contribution is 15 percent of the amount of the undisclosed contributions. However, this case has been excluded from the Streamlined Program, due to Respondent's additional reporting violations and the large dollar amount of late contribution that was not disclosed, both in paper and electronic format. Therefore, imposition of the maximum administrative penalty for each violation is appropriate.

The violations in Counts 3 and 4 have been removed from the Enforcement Division's Streamlined Major Donor Enforcement Program due to the total amount of the contributions that were not reported. The appropriate administrative penalty for matters removed from the streamlined program is determined on a case by case basis. In this case, Respondent's violations are aggravated, as the undisclosed contributions, both in paper and electronic format, totaled \$100,000. However, Respondent was a first-time major donor, and has attributed its violation to a lack of understanding of its filing requirements. In light of these factors, a penalty of \$3,000 is appropriate for each semi-annual campaign statement reporting violation.

The facts of this case therefore justify imposition of the agreed upon penalty of Sixteen Thousand Dollars (\$16,000).